

D.T.E. 03-70

Petition by the Statewide Towing Association, Inc. to commence a rulemaking pursuant to 220 C.M.R. § 2.00 et seq., to amend 220 C.M.R. §§ 272.00 et seq.: Rates for the Towing of Motor Vehicles.

ORDER INSTITUTING RULEMAKING

I. INTRODUCTION

By this Order, the Department of Telecommunications and Energy (“Department”) opens a rulemaking, pursuant to a petition by Statewide Towing Association, Inc. (“STA”), for the purpose of amending regulations 220 C.M.R. § 272.00 et seq. The revised regulations would increase the maximum rates and charges applicable to the towing of motor vehicles when such towing is ordered by the police or other public authority pursuant to G.L. c. 159B, § 6B. Pursuant to G.L. c. 159B, § 6B, the Department has the authority to establish the maximum charges for the police-ordered towing of motor vehicles. The Department last authorized an increase in the maximum towing rate in Statewide Towing Association, D.P.U. 97-37 (1997).

STA is a statewide association representing approximately 300 towing companies, a significant majority of whom perform police-ordered towing pursuant to 220 C.M.R. § 272.00 et seq. (STA petition at 2). According to STA, for the average towing company performing police-related towing, expenses exceed revenues by \$21.41 per tow (id.). The Department now seeks comment on the proposed adoption of amendments increasing the maximum charges for the police-ordered towing of motor vehicles.

II. PROPOSED REGULATIONS

By this Order, the Department proposes amendments to 220 C.M.R. § 272.00 et seq. In summary, the major changes are as follows: in 220 C.M.R. § 272.03, Table 1, Passenger Automobiles, the maximum charge per tow will increase from \$75 to \$90 and the excessive mileage rate will increase from \$1.25 per mile to \$3.00 per mile; in Table 2, Commercial

Vehicles, the maximum charge per tow will increase from \$75 to \$90, and the excessive mileage rate will increase from \$1.75 per mile to \$5.00 per mile; in Table 3, Additional Labor, the maximum rate charged for labor will increase from \$27 per hour to \$32 per hour. A copy of the current regulation incorporating the proposed revisions is attached. The effective date for the revised regulation shall be the date of final publication in the Massachusetts Register. In accordance with G.L. c. 30A, § 2, and 220 C.M.R. § 2.05, before the amended regulation can become effective further action will be required, including an opportunity for public comment. The Department will provide that opportunity at a public hearing.

III. SOLICITATION OF COMMENTS

The Department seeks initial written comments on these proposed revisions to 220 C.M.R. § 272.00 et seq. no later than 5:00 p.m. on **November 21, 2003**, and reply comments no later than **December 11, 2003**. Written comments will be limited in length to a maximum of 20 one-sided, double-spaced typewritten pages. Comments should be filed with Mary L. Cottrell, Secretary, Department of Telecommunications and Energy, One South Station, 2nd Floor, Boston, Massachusetts, 02110. All written pleadings or comments must also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dte.efiling@state.ma.us, cc: Hearing Officer at jody.stiefel@state.ma.us; or (2) on a 3.5" floppy diskette, IBM-compatible format. The text of the e-mail or the diskette label must specify: (1) and easily identifiable case caption; (2) docket number [D.T.E. 03-70]; (3) name of the person or company submitting the filing; and

(4) a brief descriptive title of the document (e.g., comments). The electronic filing should also include the name, title, and phone number of a person to contact in the event of questions about the filing. Text responses should be written in either Word Perfect (naming the document with a “.wpd” suffix) or in Microsoft Word (naming the document with a “.doc” suffix). Data or spreadsheet responses should be compatible with Microsoft Excel.

Documents submitted in electronic format will be posted on the Department’s website

<http://www.mass.gov/dpu>.

To provide further opportunity for comment, and pursuant to G.L. c. 30A, §§ 2 and 4, and 220 C.M.R. § 2.05, the Department will hold a public hearing on **December 4, 2003**, at 10:00 a.m., at the Department's offices, One South Station, Boston, Massachusetts. Interested persons may present facts, opinions, or arguments relating to the proposed regulations at the public hearing.

By Order of the Department,

Paul G. Afonso, Chairman

James Connelly, Commissioner

W. Robert Keating, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner